

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991

CG Docket No. 11-50

COMMENTS OF DIRECTV, INC.

I. INTRODUCTION

Various state Attorneys General and an individual plaintiff have petitioned this Commission for a ruling that could impose strict liability penalties under the Telephone Consumer Protection Act of 1991 (“TCPA”) on a company if its goods and services are illegally telemarketed by an independent third party. Liability would be imposed even if the company had no knowledge of or input into the telemarketing campaign, and even in circumstances where the company expressly forbids independent businesses from telemarketing its products. Such liability is not consistent with the TCPA’s plain language or its stated goals, and would constitute an unprecedented leap that may actually have far-reaching and unintended consequences, including inducing the very behavior the TCPA seeks to prevent. DIRECTV urges the Commission to carefully consider the issues and potential ramifications, and provides the comments below to illuminate the problems and unfairness of extending liability to the degree suggested by petitioners.

II. DISCUSSION

A. A Call Placed By An Entity That Markets A Seller's Goods Or Services Should Only Qualify As "Made On Behalf Of" Or "Initiated By" A Seller When That Entity Has Been Retained Or Contracted With To Make That Call On Behalf Of The Seller.

The short answer to the Commission's first question—whether a company is responsible for **any** call marketing its branded goods and services—is a definitive “No.” Of course, there are instances when a company or seller (such as DIRECTV) directly retains an independent third party (such as a telemarketing agency) for the express purpose of telemarketing on its behalf. Contracts in such situations specify that the third party will make telemarketing calls at the direction of the seller and for the primary benefit of the seller. The third party's primary purpose in calling is not to seek its own commissions or profits during the call, but rather, to fulfill its obligations to make outbound calls for the seller. In these circumstances, we agree that the seller can be liable for calls that do not comply with the TCPA and its safe harbors. However, going beyond that circumstance, and imposing responsibility and liability for **any** call that may be made about a company's goods and services, is unfair and problematic for the reasons discussed below.

Sellers with branded goods or services (such as DIRECTV) often contract with independent third parties, granting them certain rights to market and sell the seller's goods or services in exchange for payments or commissions. The seller can—and most often does—establish boundaries and prohibit activities by the third parties that do not comply with the law, including the TCPA. Nevertheless, the third party is independent and working outside the direct control of the seller. If the third party chooses to go beyond the established contract boundaries or law, the third party is in breach of the contract and the seller may exercise its contractual rights and remedies, including termination. However, as in any arms' length business

arrangement, a seller cannot control the day to day activities of the third party with whom it has contracted, nor can it prevent that third party from breaching contractual duties.

Thus, an independent third party contracting to market and sell goods or services may agree in the contract to comply with all applicable laws. The third party may even expressly agree that it will not engage in any outbound telemarketing—even activities that are perfectly appropriate under the TCPA. Despite its contractual commitments, the third party may nevertheless turn to telemarketing in an effort to increase its sales and earn additional payments or commissions. Worse yet, the third party may (unbeknownst to the company) engage yet another third party to solicit sales, and that third party—a step removed from the seller and without any contractual duties to the company—may turn to telemarketing. These telemarketing activities are planned and conducted by third parties entirely outside the seller’s knowledge and approval, and in direct breach of the contractual restrictions imposed by the seller. They are conducted by the third parties solely to advance their own business interests. In these circumstances, it is clear under the TCPA’s express language that the third parties should bear sole responsibility and liability for calls made in violation of the TCPA, since it is the third party—and not the seller whose goods or services are being sold—that is the entity “making” and/or “initiating” the call.¹

It is inappropriate and unfair to extend liability to the seller who played no part in the telemarketing and itself is harmed by the third parties’ breaches of contract. Moreover, extending liability to the seller in such a case might have the perverse effect of undermining the goals of the TCPA. If third parties conclude that the blame and financial responsibility for their

¹ See 47 U.S.C. § 227(c)(3)(F); 47 U.S.C. § 227(b)(1)(B) (TCPA attaches liability to entity making and/or initiating a call).

independent and illegal telemarketing activities will be shifted to the seller, they will have little incentive to comply with the TCPA.

The scenario just described is not by any means hypothetical. DIRECTV's own experience provides a useful illustration of why independent third parties are the sole entities that should be held responsible for telemarketing they alone elect to conduct and control.

DIRECTV's relationship with independent retailers is purely contractual in nature, and DIRECTV's ability to influence the conduct of such retailers is limited by the confines of that contract. The Independent Retailer Agreement each retailer signs with DIRECTV establishes an independent contractor relationship², and the independent retailers formulate and implement their own marketing plans. In addition, the contract obliges the retailer to comply with DIRECTV's Telemarketing Policy, which prohibits any illegal forms of outbound telemarketing related to DIRECTV's goods and services and expressly prohibits fax marketing, text message advertising, pre-recorded message advertising, and cold-call telemarketing.³

Contrary to petitioners' blanket characterization of sellers, DIRECTV is not an "unscrupulous company" seeking to evade the TCPA by "using outside entities to place millions of illegal, unwanted, and harassing telemarketing calls to American consumers."⁴ DIRECTV takes the TCPA and its mission very seriously, going so far as to contractually require compliance with the TCPA and terminating independent retailers found to be acting in violation

² Relevant portions of DIRECTV's Independent Retailer Agreement are attached hereto as Exhibit A. Section 1.1 establishes the independent contractor relationship.

³ *See id.*, Schedule 2.6(ii) ("Telemarketing Policy"), pp. 19-27; *see also id.* at Sections 2.6 ("Standard Policies") (specifying that RETAILER will comply with the Schedule 2.6(ii) "Telemarketing Policy" provided with the contract) and 2.7 ("Standard of Conduct") (specifying that RETAILER will comply with the TCPA).

⁴ Joint Petition of DISH Network, LLC and the United States, the States of California, Illinois, North Carolina, and Ohio for an Expedited Clarification of and Declaratory Ruling on the Telephone Consumer Protection Act of 1991 ("Joint Petition") at 19.

of the TCPA. In fact, a dedicated team at DIRECTV exists to promptly investigate any allegations of telemarketing violations by independent retailers; if a retailer is found to have violated the Telemarketing Policy, that retailer is terminated.

And yet, while DIRECTV has contractually prohibited independent retailers from making illegal outbound telemarketing calls related to DIRECTV-branded goods and services, the ruling sought by the Plaintiff States and the individual Plaintiff in the matter before the Commission would nonetheless hold sellers such as DIRECTV liable under the TCPA for any illegal faxes, texts, or calls initiated by an independent retailer—even though such activities would be in breach of the retailer’s contract with DIRECTV. Moreover, because independent retailers are not required to be exclusive to DIRECTV,⁵ DIRECTV could find itself facing liability for third party telemarketing speaking generally to “pay television services” even if such telemarketing was intended to result in the sale of a competing service. .

Vicarious liability that could lead to staggering statutory damages makes no sense when DIRECTV has done all that it possibly can to prevent third parties with whom it does business from engaging in illegal telemarketing.⁶ Moreover, it would eviscerate the TCPA’s safe harbor provisions if a business were to be held responsible for the independent decision of a third party to breach its contract and violate the TCPA. Indeed, beyond (1) imposing contractual rules, (2) reminding retailers about the rules in policies such as DIRECTV’s Telemarketing Policy, and (3)

⁵ See Exhibit A, Section 1.3 (no exclusivity required of retailer).

⁶ As noted, DIRECTV contractually forbids illegal telemarketing and has a strict zero tolerance policy that means termination of retailers engaged in illegal telemarketing activities. Moreover, DIRECTV does not benefit from an independent retailer’s illegal telemarketing; indeed, it is DIRECTV’s reputation and goodwill that is damaged if a third party illegally contacts consumers who are then angered and annoyed by the telemarketing. It is entirely speculative to assume that any slight gain in subscribers—which comes with substantial acquisition costs to DIRECTV—offsets the costs and inherent damage to DIRECTV.

terminating those retailers that breach their contracts by violating the rules, there is little else that a seller can do.

While Congress could have included language in the TCPA extending liability to companies whose products are being sold by third parties, it did not do so. This Commission should not take the TCPA further than Congress intended by imposing liability on a seller that itself is injured by the illegal telemarketing of independent third parties looking to boost their own businesses to the detriment of a seller's brand and goodwill.

Indeed, such vicarious liability does not advance the goals of the TCPA and is likely to jeopardize the goals and effective enforcement of the TCPA. If the company whose goods and services are being marketed is to become liable for any independent retailer's telemarketing activities—even activities specifically prohibited by the seller—there would be less incentive for third parties to comply with the TCPA because they would know another company (likely with a deeper pocket) would share (or entirely bear) the liability for their actions.

And in the end, it would be consumers who would suffer from such penalties being assessed to sellers who did not initiate or make the illegal telemarketing calls. In the first instance, if the “bad actors” are not held accountable for their actions, the unwanted calls will continue. And second, sellers would need to pull out of the independent retailer channel in order to avoid liability, and consumers would lose local contacts and competitive choices between independent retailers. Thus, DIRECTV urges the Commission to leave the liability where it was intended to fall under the plain language of the TCPA: with the party that makes or initiates the call. As detailed below, a company should only be responsible for an independent business' telemarketing when the seller has retained a third party for the express and specific purpose of telemarketing on its behalf.

B. A Telemarketing Call Can Only Be Deemed To Have Been Made “On Behalf Of” A Seller, Triggering TCPA Liability, When The Call Is Made By The Seller Or At The Seller’s Request.

The only telemarketing done “on behalf of” a company is the telemarketing that the company conducts itself, or requests/directs to be made on its behalf. Holding a company responsible under the TCPA for independent third party telemarketing would be particularly unfair when the seller has widely disseminated a policy forbidding independent retailers from telemarketing the seller’s products, and/or has contractually prohibited telemarketing of its branded goods and services. Some companies, such as DIRECTV, have taken both of these steps to dissuade independent retailers from conducting illegal telemarketing of its goods and services. Especially when such steps are taken, it is inappropriate to deem conduct undertaken independently, without the seller’s input or approval and in violation of the seller’s rights, as conduct executed “on the seller’s behalf”.⁷ Indeed, “on behalf of” liability (which is **not** the liability that applies under the TCPA’s plain language⁸), should only apply to calls either made by the company or made at its request; it should not apply to calls made without a company’s knowledge or approval, and never to calls made in direct contravention of its wishes and rights.

To again use DIRECTV’s experience as an illustration, DIRECTV does not provide any marketing funds to independent retailers for telemarketing, and does not provide independent retailers with phone numbers to call in any outbound marketing campaigns. And while DIRECTV may have agreements with independent retailers that allow these third party entities to market DIRECTV products and services through means other than outbound telemarketing, DIRECTV does not control these entities or the manner in which they choose to conduct their

⁷ See, e.g., Exhibit A, Sections 2.6-2.7 & Schedule 2.6(ii).

⁸ See Joint Petition at 10-13 (reviewing statutory provisions to demonstrate that “on behalf of” appears only in the enabling section, and not in the TCPA’s liability provisions).

businesses.⁹ DIRECTV provides every retailer with information on telemarketing laws, expressly prohibits illegal telemarketing, and urges each independent retailer to consult with counsel before engaging in any marketing campaign.¹⁰ If any independent retailer was to decide nonetheless to conduct telemarketing that violated the TCPA, DIRECTV would not control (1) the time frame and manner of the telemarketing campaign, (2) the phone or fax or text numbers to be called, (3) any scripts or messaging used, or (4) the technology used, because DIRECTV would not approve or help to fund an illegal outbound telemarketing campaign. In fact, any such campaign would be conducted in violation of the third party's contract with DIRECTV, and would lead to immediate termination.

Thus, the Commission should decline extending liability to entities that have no knowledge of, participation in, or approval of telemarketing campaigns, and at a bare minimum, make clear that companies which require compliance with all laws and expressly address and prohibit telemarketing in violation of the TCPA are not liable for actions undertaken in violation of their contracts.

If the Commission were instead to hold that any call selling a branded product is made “on behalf of” the seller of that brand and subjects the seller to potential liability, then the seller would face unpredictable and uncontrollable liability, and would be unable to do anything to protect itself from TCPA liability other than stop allowing any other business to market its brands. As noted above, this result is not in the best interest of consumers, who currently enjoy a varied marketplace in which to shop for goods and services.

Finally, as indicated by the discussion above, DIRECTV agrees generally that principles of agency should apply to the question of whether a call was made “on behalf of” a seller. Such

⁹ See Exhibit A, Section 1.1 (Appointment of Retailer as Independent Contractor).

¹⁰ See *id.*, Schedule 2.6(ii), p. 19.

an approach would allow for flexibility to address a range of circumstances, including fraud on sellers by third party entities selling their products and services and those instances when an independent retailer decides to spurn the contract and engage in prohibited telemarketing activities that are prohibited by contract. However, DIRECTV notes that it takes no position on the application of federal agency law rather than the various State laws on agency. This is because under any agency law, a seller is not responsible for actions taken by a third party business in violation of its contract.¹¹

III. CONCLUSION

In sum, it makes no sense under the design and language of the TCPA to impose liability on sellers (such as DIRECTV) for telemarketing activities conducted by independent retailers that are **not** conducted at the request or direction of the seller. Particularly when a seller has a zero tolerance policy for illegal telemarketing calls, it would defy reason to then hold the seller responsible for illegal telemarketing activities conducted by an independent retailer for the primary purpose of increasing that retailer's financial gain. A seller cannot be forced to reap a crop that was sown without its consent, against its policies and procedures, without its direction or request, and in manner that damages its goodwill.

¹¹ Because DIRECTV's independent retailers are not in a "joint venture" with DIRECTV (in fact, many retailers also sell the goods and services of DIRECTV's competitors), federal joint venture law is irrelevant to DIRECTV and it thus takes no position on its applicability.

Respectfully submitted,

William M. Wiltshire
Michael Nilsson
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, NW
Washington, DC 20036
(202) 730-1300

Clayton Friedman
Becca Wahlquist
MANATT, PHELPS & PHILLIPS LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064
(310) 312-4000

Counsel for DIRECTV, Inc.

May 4, 2011

/s/ Susan Eid
Susan Eid
Senior Vice President, Government
Stacy R. Fuller
Vice President, Regulatory Affairs
DIRECTV, INC.
901 F Street, NW, Suite 600
Washington, DC 20004
(202) 383-6300

EXHIBIT A

INDEPENDENT RETAILER AGREEMENT

THIS INDEPENDENT RETAILER AGREEMENT shall be deemed to be effective as of _____ [MONTH] _____ [DAY], _____ [YEAR] (the "Effective Date"), between DIRECTV, Inc., a California corporation ("DIRECTV") and _____, a ("RETAILER"), with reference to the following:

A. DIRECTV operates a multi-channel video and entertainment service ("DIRECTV Service") through which consumers may receive video and audio programming, and other services using specialized receiving equipment ("DIRECTV System").

B. RETAILER wishes to act as one of DIRECTV's commissioned retailers (i) for the marketing, advertising, promotion and leasing of DIRECTV Systems, (ii) for the marketing, advertising and promotion of DIRECTV Service, and (iii) to solicit consumers to order certain DIRECTV programming packages and services which are identified in Exhibit A attached hereto, as the same may be amended from time to time ("DIRECTV Programming Packages").

NOW, THEREFORE, the parties hereby agree as follows:

1. APPOINTMENT OF RETAILER.

1.1 APPOINTMENT.

(a) DIRECTV hereby engages RETAILER as an independent contractor (i) to market, promote and advertise the leasing of DIRECTV Systems and (ii) to market, promote and advertise the sale of DIRECTV Programming Packages ("Subscriptions"), by extending the "Consumer Offers" on behalf of DIRECTV, as hereinafter defined, through marketing tactics, channels and methods as agreed to by the parties on the terms and conditions contained herein.

(b) RETAILER may (i) market, promote and advertise the leasing of DIRECTV Systems through the Consumer Offers; and (ii) market, promote, advertise and solicit the sale of Subscriptions, only for single family residential households in the United States.

(c) RETAILER may market, promote and solicit Subscriptions only for the DIRECTV Programming Packages identified in Exhibit A attached hereto, and not any other programming packages or services DIRECTV may offer.

(d) DIRECTV may amend the list of DIRECTV Programming Packages from time to time on written notice to RETAILER.

(e) RETAILER hereby accepts such engagement and shall use its best commercial efforts (i) to market, promote and advertise the leasing of DIRECTV Systems through the Consumer Offers; (ii) to market, promote, advertise and solicit sales of Subscriptions; and (iii) to promote and enhance DIRECTV's business, reputation and goodwill in accordance with the terms of this Agreement.

1.2 NO EXCLUSIVITY REQUIRED OF DIRECTV. DIRECTV may itself extend the Consumer Offers and solicit Subscriptions from consumers, either directly, indirectly, or in conjunction with any third party, and may authorize parties other than RETAILER to act as its commissioned retailers to promote, market, advertise and/or solicit the Consumers Offers and Subscriptions, for any compensation and upon any other terms as DIRECTV may determine in its discretion. Such compensation and terms may differ from those provided RETAILER in this Agreement. RETAILER acknowledges that DIRECTV and such other parties may compete with RETAILER in the solicitation of the Consumer Offers and Subscriptions.

1.3 **NO EXCLUSIVITY REQUIRED OF RETAILER.** RETAILER likewise is not exclusive to DIRECTV and may sell or solicit orders for any other multi-channel video service which competes with DIRECTV Service, except as expressly provided herein or as otherwise agreed to by the parties.

2. **RETAILER'S GENERAL OBLIGATIONS.**

2.1 **STOREFRONT LOCATION.** Throughout the term of the Agreement, at least one of RETAILER's locations must be a storefront location (i.e., a retail store), unless otherwise agreed by DIRECTV in writing.

2.2 **RETAIL DISPLAYS.** RETAILER shall prominently display, in a high traffic area at each of its locations, in a manner reasonably directed by DIRECTV, (a) point of sale materials provided or approved by DIRECTV and (b) a demonstration DIRECTV System which provides a live feed of DIRECTV programming, unless otherwise agreed in writing by DIRECTV. RETAILER shall keep such DIRECTV System turned on and tuned to such channels as DIRECTV may designate during normal business hours.

2.3 **TRAINING.** DIRECTV shall provide training and training materials regarding the Consumer Offers and the DIRECTV Service to RETAILER's training personnel, as DIRECTV reasonably deems necessary. RETAILER shall train its own employees to the satisfaction of DIRECTV. DIRECTV may require RETAILER's employees to attend supplementary training classes from time to time. RETAILER shall be responsible for all expenses and compensation of its employees during such training.

2.4 **PERSONNEL.** RETAILER may allow only its employees (and not any independent contractors, sub-agents or other parties) (a) to market, promote, advertise and solicit leasing of the DIRECTV Systems or (b) to market, promote and advertise the Consumer Offers and orders for DIRECTV Programming Packages, except with DIRECTV's prior written consent, which may be withheld in DIRECTV's discretion. RETAILER understands and acknowledges that no third party outbound telephone call center or other referral affiliates may be utilized in any manner whatsoever under this Agreement. In addition to any other rights DIRECTV may have, DIRECTV shall have the right to terminate this Agreement immediately, without an opportunity to cure, for RETAILER's material breach of this Subsection.

2.5 **ADVERTISING.** RETAILER shall market, promote and advertise the Consumer Offers, the DIRECTV Systems and DIRECTV Programming Packages as directed by DIRECTV, at RETAILER's sole cost, using such marketing tactics, channels, methods and at such frequency as DIRECTV may reasonably designate. All advertising, marketing and promotional materials related to DIRECTV, the Consumer Offers, the DIRECTV Systems and the DIRECTV Programming Packages shall be subject to DIRECTV's prior approval. DIRECTV may withhold approval in its sole and absolute discretion of the use by RETAILER of any marketing tactic, channel or method that DIRECTV reasonably believes does not fit within its marketing strategy. All such advertising strategies, campaigns and materials related thereto shall be subject to DIRECTV's prior approval. No approval shall limit RETAILER's obligation to comply with applicable law or be deemed an endorsement of any advertising content except as it relates to the Consumer Offers or DIRECTV Service. In addition to any other rights DIRECTV may have, DIRECTV shall have the right to terminate this Agreement immediately, without an opportunity to cure, for RETAILER's material breach of this Subsection.

2.6 **STANDARD POLICIES.** RETAILER shall comply with the standard policies and procedures DIRECTV may promulgate for its retailers in written notices, guidelines, and bulletins, including, without limitation, the credit approval/checking policy as outlined in Schedule 2.6(i) attached hereto and made a part hereof (the "Credit Policy") and the telemarketing policy as outlined in Schedule 2.6(ii) attached hereto and made a part hereof (the "Telemarketing Policy") as they may be amended from time to time (collectively "Policies"). The Policies shall be an integral part of this Agreement. In addition to any other rights DIRECTV may have, DIRECTV shall have the right to terminate this Agreement immediately, without an opportunity to cure, for RETAILER's material breach of this Subsection.

2.7 **STANDARD OF CONDUCT.** In all of its activities hereunder for DIRECTV, RETAILER shall conduct itself in a commercially reputable and ethical manner, shall comply with all applicable laws (including the Telephone Consumer Protection Act of 1991), and shall engage in no deceptive sales practice or other practice which impugns DIRECTV's commercial reputation and goodwill.

2.8 **NO TYING.** In no event may RETAILER condition any transactions involving or related to the Consumer Offers, the DIRECTV Systems or a DIRECTV Programming Package upon the customer's acquisition of any other product or service, except as otherwise approved by DIRECTV in writing.

2.9 **BOOKS AND RECORDS.** RETAILER shall maintain books and records relating to its activities on behalf of DIRECTV for a minimum of three (3) years after their creation and shall keep them at its principal place of business. DIRECTV may at all times during business hours inspect such books and records and RETAILER's locations for compliance hereunder.

2.10 **CONSUMER PROGRAMS.** RETAILER shall use its best efforts to participate in and implement any national consumer programs established by DIRECTV, from time to time, on the same terms and conditions as provided to other independent retailers of DIRECTV.

2.11 **COLLECTION AND ADMINISTRATION OF EQUIPMENT LEASE ADDENDUM.** For each and every Qualifying Subscriber (as hereinafter defined) who satisfies the terms and conditions and accepts any of the Consumer Offers from RETAILER and for each and every existing DIRECTV subscriber who satisfies the terms and conditions and accepts any of the Consumer Offers from RETAILER, RETAILER shall perform the following:

(a) Explain the general terms and conditions of the "Equipment Lease Addendum" required by DIRECTV as described in Schedule 2.11 attached hereto and in other materials provided by DIRECTV from time to time;

(b) Cause the customer to complete and execute the Equipment Lease Addendum;

(c) Verify, validate and certify the accuracy of the information provided by the customer in the Equipment Lease Addendum;

(d) Complete the dealer portion of the Equipment Lease Addendum;

(e) Provide a completed and executed copy of the Equipment Lease Addendum to the customer;

(f) When submitting an Order, as defined herein below, for a DIRECTV Programming Package in accordance with the order procedures, indicate and notify DIRECTV, in accordance with the procedures prescribed by DIRECTV, that a customer has executed and agreed to the Equipment Lease Addendum; and

(g) Upon request by DIRECTV, provide the completed copy of the Equipment Lease Addendum.

2.12 **CUSTOMER RELATIONS, ETC.** RETAILER shall not (a) mislead, deceive or otherwise misrepresent customers in connection with the terms and conditions of the Consumer Offers, the DIRECTV Programming Packages (or receipt thereof) or the Equipment Lease Addendum; (b) force or coerce customers into executing the Equipment Lease Addendum; (c) falsify any information contained in the Equipment Lease Addendum; or (d) falsely claim that a customer has executed the Equipment Lease Addendum. In the event RETAILER breaches or otherwise violates this Subsection, in addition to any

other rights it may have, DIRECTV shall have the right to terminate this Agreement immediately, without an opportunity to cure, upon written notice to RETAILER.

2.13 **CUSTOMER SOLICITATION.** RETAILER shall not, solicit, induce or otherwise cause an active DIRECTV subscriber to disconnect his/her service and/or reconnect/reactivate his/her service through a DIRECTV System leased through RETAILER, provided however that no general solicitation containing a general offer to acquire the multi-channel audio/video entertainment programming services of DIRECTV shall be deemed a solicitation, inducement or other cause for a DIRECTV service disconnection.

3. RETAILER'S DIRECTV EQUIPMENT-RELATED BUSINESS.

3.1 **GENERAL.** RETAILER shall conduct all of its DIRECTV System installation, warranty, maintenance, and repair business ("DIRECTV Equipment Business") for its own account; provided, however that the lease transaction for DIRECTV Systems leased under the Consumer Offers shall be consummated by and between DIRECTV and consumers.

3.2 **APPROVED DIRECTV SYSTEM.** All DIRECTV Systems offered for lease by RETAILER for use with DIRECTV Service must be compatible with such Service and manufactured by a supplier approved by DIRECTV. DIRECTV shall notify RETAILER of such approved DIRECTV Systems and suppliers. RETAILER may take orders for DIRECTV Programming Packages hereunder only from customers to whom it consummates the lease transaction for DIRECTV.

4. RATES AND TERMS OF SERVICES.

4.1 **RATES.** DIRECTV may determine the content, pricing, terms, and conditions of the Consumer Offers, DIRECTV Service and DIRECTV Programming Packages in its sole and absolute discretion. RETAILER shall not represent that the Consumer Offers, the DIRECTV Service or the DIRECTV Programming Packages may be obtained on any different terms, rates or conditions, shall not impose additional or different terms and shall not offer customers any discount, rebate, or other material benefits in consideration for subscribing to them, except as expressly authorized by DIRECTV in writing. In the event RETAILER breaches or otherwise violates this Subsection, in addition to any other rights it may have, DIRECTV shall have the right to terminate this Agreement immediately, without an opportunity to cure, upon written notice to RETAILER.

4.2 **CHANGES.** DIRECTV may change the content, pricing, terms, conditions, and availability of the Consumer Offers, DIRECTV Service and DIRECTV Programming Packages from time to time in its sole and absolute discretion. DIRECTV shall notify RETAILER of such changes as soon as practicable. RETAILER shall promptly replace point of sale materials, if any, as necessary.

4.3 **MISREPRESENTATIONS.** If RETAILER misrepresents or fails to fully disclose any prices or other terms and conditions of the Consumer Offers, DIRECTV Service, DIRECTV Systems or DIRECTV Programming Packages to any customer, it shall reimburse DIRECTV any amount which DIRECTV is compelled, or in its reasonable judgment according to its standard practices decides, to pay or credit the customer in compensation for such misrepresentation. In addition, DIRECTV shall be entitled to offset any such payment or credit by DIRECTV to customers as a result of RETAILER's misrepresentations or omissions against any amounts owed to RETAILER by DIRECTV.

5. ORDERS FOR SERVICE.

5.1 **ORDER PROCEDURES.** RETAILER shall comply with the procedures set forth in Exhibit B attached hereto, as the same may be amended by DIRECTV from time to time upon written notice, regarding the receipt and delivery of orders for the Consumer Offers ("Orders"). All Orders shall be subject to acceptance or rejection by DIRECTV in its discretion.

SCHEDULE 2.6(ii)

TELEMARKETING POLICY

Statement for Independent Retailers Regarding DIRECTV's Policies Relating to Telemarketing, Internet Marketing, and Home Solicitation

Today's technology provides a variety of methods for marketing to consumers, many of which may be used effectively to produce sales. However, several of these methods present particular risks and concerns which are the subject of this Policy Statement. In addition, virtually every method of marketing is subjected to a variety of state and federal laws - ranging from laws protecting consumers from unfair and deceptive practices to home solicitation laws. A general overview of these types of laws is also provided; however, it is your responsibility to determine which specific laws are applicable to your activities. **Please review this Policy Statement carefully. You are expected to know and comply with all marketing laws applicable to your activities.**

The retailer agreement, or "Sales Agency" agreement (the "Agreement") you have with DIRECTV creates an independent contractor relationship due to the fact that DIRECTV does not have control over how you run your business. However, your Agreement requires that you conduct your activities in a manner that will not impugn DIRECTV's reputation and goodwill, and that you comply with all applicable laws and DIRECTV policies.

DIRECTV's policy is to adhere to all laws relating to marketing activities. Each retailer is responsible for making sure that its own marketing activities conform to the law. The purpose of this Policy Statement is to alert you to the existence of certain types of marketing laws and DIRECTV's policies in regards to certain marketing activities. You must take all steps necessary to tailor your marketing efforts to conform to the law and DIRECTV's policies. DIRECTV maintains the right to immediately terminate its Agreement with any retailer that DIRECTV believes, in its sole discretion, may have breached the Agreement, violated DIRECTV's policies, or otherwise engaged in illegal, objectionable, inappropriate, or otherwise forbidden marketing activities. DIRECTV will also immediately terminate the Agreement of any retailer found to have made misrepresentations to DIRECTV about its marketing activities.

The information provided in this Policy Statement is in summary form only and is not intended to provide legal advice or counsel. Legal requirements differ from jurisdiction to jurisdiction, and are constantly evolving. Therefore, it is imperative that you consult your legal counsel for full details on the requirements of all applicable marketing laws and regulations before undertaking any marketing campaign.

I. Telemarketing

The federal Telephone Consumer Protection Act, 47 U.S.C. § 227 et. seq., ("TCPA") places restrictions on the use of telephone equipment to market or promote products and services. Numerous states have adopted statutes modeled after or more restrictive than the TCPA, each with its own penalty scheme. Another related and significant regulatory regime in this area is the Telemarketing and Consumer Fraud Prevention Act, 15 U.S.C. § 6101 et. seq., as implemented by the Federal Trade Commission in the Telemarketing Sales Rule, 16 CFR Part 310 ("TSR"). In 2003, the FTC and FCC established and began enforcement of a National Do Not Call Registry. Many states also have their own Do Not Call Registries, as well as telemarketer registration and bonding requirements. In many instances these state laws apply to **all forms** of outbound and inbound telemarketing

The potential penalties for violating these laws are serious. For example, the government can impose \$16,000.00 in penalties "for each such violation" of the TCPA or the Telemarketing Sales Rule. In addition, under the TCPA, consumers can bring private rights of action to seek the greater of actual damages or \$500, which can be trebled to \$1500 by the Court if the conduct is deemed willful. Because of the myriad of laws making compliance difficult, as well as the penalties and loss of reputation and goodwill associated with non-compliance, DIRECTV does not provide discretionary marketing funds for use in connection with outbound telemarketing solicitations.

Following are DIRECTV's specific policies and guidelines regarding particular forms of outbound telemarketing:

A. Facsimile advertising.

Facsimile advertising is a form of outbound telemarketing solicitation that is **expressly disapproved of for ANY use in advertising "DIRECTV" branded products and services**. In addition, it is considered a violation of this Policy Statement for any independent retailer to use facsimile advertising in connection with Dish Network or any "satellite television" product if such advertisement is likely to lead to consumer confusion and the mistaken belief that such advertising relates to DIRECTV-brand products or services.

B. Pre-recorded messages.

Pre-recorded message advertising is also a form of outbound telemarketing solicitation that is **expressly disapproved of for ANY use in advertising "DIRECTV" branded products and services**. In addition, it is considered a violation of this Policy Statement for any independent retailer to use pre-recorded message advertising in connection with Dish Network or any "satellite television" product if such advertisement is likely to lead to consumer confusion and the mistaken belief that such advertising relates to DIRECTV-brand products or services.

C. Text messages.

Several courts have determined that text messages are legally the same as phone calls or pre-recorded messages. Therefore, text message advertising is also a form of outbound telemarketing solicitation that is **expressly disapproved of for ANY use in advertising "DIRECTV" branded products and services**. In addition, it is considered a violation of this Policy Statement for any independent retailer to use text message advertising in connection with Dish Network or any "satellite television" product if such advertisement is likely to lead to consumer confusion and the mistaken belief that such advertising relates to DIRECTV-brand products or services.

D. Outbound unsolicited telephone calls by live operators ("cold calling").

Using live operators to place unsolicited (no applicable existing business relationship) outbound telemarketing calls, sometimes also referred to as "cold calls," is **expressly disapproved of for ANY use in advertising "DIRECTV" branded products and services**. In addition, it is considered a violation of this Policy Statement for any independent retailer to place such calls in connection with Dish Network or any "satellite television" product if such advertisement is likely to lead to consumer confusion and the mistaken belief that such advertising relates to DIRECTV-brand products or services.

E. Returning Calls to Prospective Customers who have made a "qualified" inquiry, and calls to existing customers

i. *Inquiries from prospective customers.* Retailers may *generally* make or return telephone calls to prospective customers who initiate contact with them to inquire about DIRECTV products and services, notwithstanding the consumer's registration in the federal Do Not Call registry or similar state registries. Current federal law permits an outbound telemarketing call to a consumer if the consumer has made an inquiry within the past 90 days regarding a product or service offered by the retailer, unless the consumer has previously asked to be placed on the retailer's *internal* Do Not Call list. State laws may impose more restrictive time frames, require registration and/or bonding requirements or even prohibit return calls to consumers on their state Do Not Call registries altogether, so obtaining advice of counsel regarding the laws in the jurisdictions within which you plan to operate is imperative.

You must have a written Do Not Call policy, train your operators on the policy, enforce compliance with the policy, provide it upon a consumer request, and timely honor all requests to be placed on your internal Do Not Call list. You must scrub against your internal list (and more restrictive state lists) before making return calls to consumers who have made an inquiry.

Typically, in order to qualify for an "inquiry" exemption to Do-Not-Call registries, the inquiry by the consumer must be made to you, the actual retailer, and not to a third party marketer or lead generator (unless that generator clearly and conspicuously identifies you and that it is acting on your behalf). The inquiry must also be specific to DIRECTV products or services, not simply, for example, a general consent to receive more information about "electronic products" or "satellite systems."

DIRECTV's policy requires that return calls be made by a live operator – no pre-recorded messages, including "Press 1" or other approaches should be used. Any other method could result in violation of the law.

In addition, the TCPA generally prohibits calls to cell phones unless the consumer has provided consent. Therefore, special steps should be taken to avoid violations related to cell phones. First, no return calls should be made to cell phones that have simply been "captured" through a caller ID or other system. Return calls should only be placed to consumers who talked to an agent, but the sale was not closed. Second, when agents talk to consumers who placed an inbound call on a cell phone and the conversation ends as "no sale" but has not been dispositioned as DNC, agents should obtain consent to call the cell phone back (e.g., "may I call you back at this number?" and/or "is there another number I can call?"). If the consumer says no or refuses to provide a different number, the call should be dispositioned as DNC and the caller can be thanked and told to call back if they need more information about DIRECTV service or change their mind about subscribing. If the agent is unable to ask for consent (e.g., the caller hangs up or the call drops), the call should likewise be dispositioned as DNC. Third, where consent has been given to return a call to a cell phone, calls should not be placed through a predictive dialer.

There are several key aspects to remember when claiming "inquiry" call exemptions to the TSR or state laws:

- Time frames in which calls can be returned must be strictly obeyed, both in terms of overall call return period (as noted, federal law permits return calls within 90 days of inquiry, but state laws may be more restrictive) and hour, day of week and holiday restrictions (e.g., no calls before 8 AM or on holidays). In addition, some states impose registration and bonding requirements for all types of telemarketing calls, including calls to consumers who have made an inquiry. You must consult with legal counsel to ensure compliance in every state to which you return calls to inquiring consumers.

- Consumer inquiries to third parties do not create an exemption unless, in the process of obtaining the lead, the affiliate clearly and conspicuously discloses that the consumer will receive a call from you, the actual retailer/seller.
- That is true even as to subsidiaries and affiliated companies. Consumer inquiries to your subsidiary or affiliate do not provide you an exemption to call the consumer back, unless, the consumer would reasonably expect you to respond to the inquiry. Vice versa is true as well. Your subsidiaries and affiliates cannot return calls to consumers who make an inquiry to you, unless, the consumer would reasonably expect the subsidiary or affiliate to call. And finally, such permissible return calls must involve the product the consumer originally inquired about.
- **Remember:** DIRECTV's approval is required if you plan on using a third party to generate leads, and under no circumstance should you call a consumer whose name and phone number was provided by a lead generator unless the consumer is aware of your identity and you can prove the consumer consented to receiving a call from you, as the actual retailer/seller, about DIRECTV products or services.
- The burden is on you to maintain records and documents to "prove that an inquiry was made by the consumer." This is not only a DIRECTV policy requirement, but a legal requirement. You should never place a return call to a consumer unless you have proof that the consumer made an inquiry and consented to receiving calls from you. You must provide such proof upon the request of DIRECTV or any regulatory enforcement agency.

ii. *Calls made to a consumer where there is an existing prior business relationship which includes a financial transaction.* Under federal law, you may also call consumers who have engaged in a financial transaction with you within the past 18 months prior to the telemarketing call. Again, however, some states may have stricter laws and it is incumbent upon you to consult with counsel to ensure compliance in every jurisdiction in which you plan to make such calls. Further, as with the consumer inquiry exemption described above, the following restrictions apply:

- This exemption does not apply if the consumer has asked to be placed on your internal Do Not Call list.
- This exemption does not apply to your affiliates or subsidiaries, as described above.
- The burden is on you to maintain documents and records in order to establish that the exemption exists. These documents proving the relationship must be produced upon the request of DIRECTV or any regulatory enforcement agency.
- State laws may be more restrictive, so you must consult with local counsel to determine whether or not existing business relationship telemarketing calls can be made to consumers in particular states.

F. General Telemarketing Requirements

In addition to the national database Do Not Call provisions, the Telemarketing Sales Rule also sets forth significant requirements which must be complied with when engaging in any type of telemarketing (including calls made in response to a consumer's inquiry or to customers with whom you have an existing

business relationship). Similar requirements also exist at the state level. At a minimum, independent retailers engaging in any type of telemarketing sales call must comply with the following requirements:

- Immediate disclosure. You must immediately and promptly disclose at the beginning of the call your identity, the purpose of the call, the nature of products being sold and certain disclosures concerning prize promotion or sweepstakes.
- Calling time restrictions – you can generally only make calls between 8:00 a.m. and 9:00 p.m. in the consumer's time zone. Some states have more restrictive time restrictions.
- Maintenance of internal Do Not Call policies – all retailers who call consumers must maintain a written Do Not Call policy, train all employees about that policy and police for compliance. Further, upon request, a copy of the written policy must be sent to any consumer requesting the same. Lastly, you must maintain and scrub against your internal Do Not Call list and place consumers on that list immediately after receiving the request.
- Additional disclosures. Prior to the conclusion of the call, you must disclose the total cost including shipping and handling charges of any product purchased, all material conditions of the sale including any material limitations on free equipment or installation offers (such as any DIRECTV requirement to maintain a certain level of service for a specified period of time) and certain additional disclosures regarding any prize promotions.
- Record Keeping Requirements. In addition to maintaining records concerning any claimed exemption from a Do Not Call registry, you are also required to maintain other records concerning the telemarketing sale of products or services, including copies of all advertisements and promotional materials, sales and prize records, and certain contact information concerning telemarketing employees.
- Bonding and Registration Requirements: Some states require telemarketers to be registered and/or provide a bond. You must consult with counsel to determine whether or not these requirements are triggered by your intended activities.
- Miscellaneous requirements: you may not engage in threats of intimidation, repetitive and annoying calls, or make false and misleading statements.

II. *No Third Party Solicitors/Marketing Agents*

Your Agreement with DIRECTV does not allow the use of third parties to solicit sales absent express written approval of DIRECTV. Approval must be given by both the Regional Vice President/Senior Director and Senior Vice President – Sales. No other employee is authorized to provide approval, written or otherwise. Thus, you are not authorized to use any agent, independent contractor or any other third party to conduct marketing campaigns as addressed in this Policy Statement. In the event that DIRECTV suspects you are using a third party to telemarket, email, conduct home solicitations, or any other similar form of marketing, DIRECTV may immediately terminate your Agreement.

III. *Internet Marketing*

A. E-Mail

A federal law (The Can Spam Act), effective January 1, 2004, places numerous restrictions on e-mail marketing messages that companies may send to users. The Can Spam Act creates tough penalties such as criminal sanctions with up to 5-year jail sentences and fines including statutory damages of up to \$2 million per incident (trebled to \$6 million for knowing violations). The law prohibits deceptive practices that mislead consumers, such as using misleading subject lines or headers, masking the marketer's identity in the reply address, or falsifying registration information. This federal law pre-empts most state laws related to e-mail regulation, but you need to check with counsel to ensure no additional state requirements apply.

DIRECTV does not engage in nor does it condone illegal e-mail marketing, sometimes referred to as "spamming." Accordingly, DIRECTV will not tolerate spamming from independent retailers. Your Agreement requires you to comply with all applicable laws, and also requires that in all of your activities as an independent contractor for DIRECTV, as well as in your separate equipment business, you engage in no practice which impugns DIRECTV's commercial reputation and goodwill. Spamming not only may result in the violation of laws, but also reflects poorly on the DIRECTV-brand name.

If you choose to market via e-mail, you are responsible for adopting and adhering to policies and procedures that will prevent illegal spamming. You need to speak with your legal counsel to ensure compliance with the law, but at a minimum, your policies should address the following: E-mail messages containing advertisements are required to include a clear and conspicuous identification that the message is an advertisement or solicitation. Further, the law prohibits misleading practices such as using misleading subject lines or headers, masking the marketer's identity in the reply address, or falsifying registration information. Messages must also include a clear and conspicuous notice that recipients can "opt-out" of receiving future messages, and the message itself must include an immediate opt-out mechanism – either a functioning return address or an automated opt-out method. The opt-out mechanism must work for at least 30 days after the e-mail was sent. The sender has 10 days to remove an opt-out from its marketing list. Messages must further contain a valid physical postal address. Harvesting of e-mail addresses on the Internet or randomly generating electronic mail addresses by computer is strictly prohibited. Harvesting activities constitute aggravated violations which may result in trebled fines.

Some prohibitions (not any related to deceptive practices) may not apply if the advertiser has the recipient's express affirmative consent to receive e-mail advertisements. However, consent can only be demonstrated where the recipient expressly consented to receive e-mail advertisements from that advertiser either in response to a clear and conspicuous request for consent or at the recipient's own initiative. Finally, e-mail messages sent to facilitate, complete or confirm a commercial transaction are exempt. This includes messages that reflect account statements, change of status or terms, product updates and upgrades, warranty information, safety or security information, subscriptions, memberships and other similar commercial relationships. However, this exemption does not provide marketers with a broad "existing business relationship" exemption. Thus, before undertaking any campaign, you should consult with your legal counsel to ensure compliance with all new developments in the law.

DIRECTV expects you to keep, maintain and utilize the required "opt-out" list to prevent sending messages to consumers who have expressed a desire not to be contacted via e-mail. You must have in place, and train all employees involved in this marketing activity on, written policies and procedures to ensure that all requests – including any that may be made to your postal address – are timely addressed and honored. These written policies and procedures must be made available to DIRECTV upon request.

To the extent you claim exemption from the law due to affirmative consent or completion or confirmation of a commercial transaction, you must preserve and maintain proof of such exemption status. Such proof must be made available to DIRECTV upon request.

Failure to comply or produce materials to DIRECTV upon its request may result in termination of your Agreement.

B. Banner Ads and Other Website Marketing

State, federal, and foreign laws generally related to advertising apply in both the online and off-line environments. Accordingly, when using or operating banner ads or otherwise advertising on websites or through other Internet channels, you should consult with your legal counsel to ensure compliance with all such laws. This includes ensuring that the content of any banner ads or other advertisements contain no misrepresentations or misleading statements about DIRECTV-branded products or services, and that all material information is clearly and conspicuously disclosed to consumers, including a clear and conspicuous disclosure in close proximity to any offer of the material limitations and requirements associated with such offer.

Your legal counsel can provide information and advice about other required disclosures in the on-line environment, but at a minimum, your on-line marketing should clearly and conspicuously provide your identity and contact information (to avoid confusion that the advertising was placed by DIRECTV), the nature of the products and services being offered, and the types of information (including personally identifiable information) that you collect from and about consumers.

With regard to the collection of information, you should be certain to disclose the types of information collected **passively** from the consumer, such as through cookies, Internet Protocol ("IP") addresses, web bugs, and other passive collection devices. Independent retailers should also fully disclose to consumers information about any **third parties** that help support, or otherwise obtain information from, the independent retailer's Internet marketing activities (such as DoubleClick, Coremetrics, etc.). You should realize that the failure to fully disclose and otherwise properly handle information collection, use, and disclosure might violate any number of applicable state, federal, and/or foreign consumer protection and privacy laws. DIRECTV has the right to immediately terminate its Agreement with any independent retailer that DIRECTV believes might have engaged in illegal or inappropriate banner or other website advertising.

Independent retailers must also comply with all applicable laws and intellectual property rights when using search engines and search engine listings. In particular, independent retailers must observe all such laws and rights protecting DIRECTV's company name, logos and/or trademarks. Independent retailers must not use DIRECTV's marks in their web addresses or metatags, and must identify themselves as independent retailers that sell DIRECTV-branded products.

Finally, it is important to note that internet marketing cannot be used to generate consumer "inquiries" for subsequent telemarketing activities unless the e-mail, web-form, etc., clearly and conspicuously identifies your business and you obtain the consumer's demonstrable consent to receive a follow-up telephone call from you about DIRECTV products or services. For more information on this topic, see Section III.D on Telemarketing below.

IV. Cooling-Off Laws

Federal, state and local jurisdictional laws govern the sale of goods or services at a consumer's place of residence. Under the FTC Rule, 17 CFR 429, a buyer in a home solicitation sale must be given a "cooling off"

period which consists of three business days during which he or she may cancel an agreement without obligation. The seller may not collect or retain any cancellation fee. The Federal Rule defines a door-to-door sale as the sale of consumer goods or services in which seller or his representative solicits the sale (including those in response to buyer invitation) and the buyer's agreement or offer to purchase is made at a place other than the seller's place of business. Many states have similar statutes which address sales that result from direct contact by the supplier at a place other than the seller's place of business. It is important to note that several state home solicitation statutes also apply to sales that are conducted through telemarketing activities. Various local ordinances also apply to such sales activities.

If you are conducting sales of goods or services which fall under these criteria, you should consult your legal counsel before undertaking any home solicitation marketing activities. At a minimum, in order to comply with the FTC Rule, state statutes and local ordinances, you must provide the buyers with all required documents and information. You should use a signed agreement or offer to purchase form that is signed by the buyer. This form should include a statement regarding the buyer's right to cancel. Several states also require that the seller provide a Notice of Cancellation form that the buyer can complete and submit to the seller in the event he wishes to cancel the contract. One example of these forms is provided below; however, you must consult your legal counsel to ensure compliance with varied federal, state and local laws:

BUYER'S RIGHT TO CANCEL

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

NOTICE OF CANCELLATION

(Date)

You may CANCEL this transaction, without any Penalty or Obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to [Name of Seller], at [address of seller's place of business] NOT LATER THAN MIDNIGHT OF [date].

I HEREBY CANCEL THIS TRANSACTION. (Date) _____

Buyer's Signature _____

V. Complaints

If DIRECTV receives any individual complaints regarding your telemarketing practices, Internet Marketing, home solicitation practices, or any other related matter, we will forward such complaints to your attention. We require that you respond appropriately and in a timely fashion to the individuals concerned. We also require that you forward to DIRECTV a complete copy of your response and all related documents, records, and/or correspondence. With respect to any complaints that you receive directly from individuals about your practices, we expect that you will respond appropriately and in a timely fashion. We also expect that, upon our request, you will provide us with access to the individual complaints you have received, as well as a complete copy of your response and all related documents, records, and/or correspondence.

In the event that you receive an inquiry or complaint from a regulatory or government authority, we require you to immediately forward the complaint to us, along with all related documents, records, and correspondence, and a written explanation of what occurred. We also expect that you will allow us to participate in the response to any such government inquiry or investigation, to the extent that we wish to participate.

* * * * *

While telemarketing, Internet marketing, and home solicitation may be effective means of reaching consumers, these marketing activities are fraught with difficulties. The risks involved may in fact exceed the potential benefits. The costs associated with defending against even frivolous claims can be enormous. Thus, please proceed responsibly and in accordance with DIRECTV's policies as stated herein, and only after consultation with your legal counsel. Finally, as with any other form of advertising, you must ensure that your advertisements: (1) properly identify your company as the source; (2) comply with all applicable advertising laws and regulations, and are truthful and not misleading; (3) comply with DIRECTV's Style and Usage Guide, if you intend to include a DIRECTV brand logo; and (4) comply with DIRECTV's then-applicable national offers. Keep in mind that advertising text submitted to DIRECTV for brand and national offer review, and potentially for co-op payment, is not endorsed or approved by DIRECTV as compliant with all potentially applicable laws, and that DIRECTV does not approve, make recommendations or determine what medium you use for advertising. Only you can take the step necessary to ensure that your marketing efforts comply with all applicable laws.